

§ 75A-15. Rules on water safety; adoption of the United States Aids to Navigation System.

(a) In accordance with subsection (b) of this section, the Commission is empowered to adopt rules, for the local water in question, as to:

- (1) Operation of vessels, including restrictions concerning speed zones, and type of activity conducted.
- (2) Promotion of boating and water safety generally by occupants of vessels, swimmers, fishermen, and others using the water.
- (3) Placement and maintenance of navigation aids and markers, in conformity with governing provisions of law.

Prior to the adoption of any rules, the Commission shall investigate the water recreation and safety needs of the local water in question. In conducting the investigation, the Commission in its discretion may hold public hearings on the rules proposed and the general needs of the local water in question. After completion of the investigation and application of standards, the Commission may in its discretion adopt the rules requested, adopt them in an amended form, or refuse to adopt them. After adoption, the Commission may amend or repeal the rules after first holding a public hearing.

(b) Any subdivision of this State may, but only after public notice, make formal application to the Commission for rules on waters within the subdivision's territorial limits as to the matters listed in subsection (a) of this section. The Commission may adopt rules applicable to local areas of water defined by the Commission that are found to be heavily used for water recreation purposes by persons from other areas of the State and as to which there is not coordinated local interest in regulation.

(b1) The Commission may adopt rules to prohibit entry of vessels into public swimming areas and to establish speed zones at public vessel launching ramps, marinas, or vessel service areas and on other congested water areas where there are demonstrated water safety hazards. Enforcement of rules adopted pursuant to this subsection shall be dependent upon placement and maintenance of regulatory markers in accordance with the United States Aids to Navigation System by the Commission or an agency designated by the Commission.

(c) The United States Aids to Navigation System, as established by 33 Code of Federal Regulations Part 62 (July 1, 2005 edition), is hereby adopted for use on the waters of North Carolina. The Commission is authorized to adopt rules implementing the marking system and may:

- (1) Modify provisions as necessary to meet the special water recreational and safety needs of this State, provided that the modifications do not depart in any essential manner from the uniform standards being adopted in other states.
- (2) Modify provisions as necessary to conform with amendments to the marking system that may be proposed for adoption by the states.
- (3) Enact supplementary standards regarding design, construction, placement, and maintenance of markers.
- (4) Enact clarifying rules as to matters not covered with precision in the United States Aids to Navigation System.
- (5) Enact implementing rules as to matters left to State discretion in the United States Aids to Navigation System.
- (6) Enact rules forbidding or restricting the placement of markers either throughout the State or in certain classes or areas of waters without prior permission having been obtained from the Commission or some agency or official designated by the Commission.

(c1) It is unlawful to place or maintain any marker of the sort covered by the marking system in the waters of North Carolina that does not conform to or is in violation of the marking system and the implementing rules of the Commission.

(d) Rules enacted under the authority of subsections (a), (b), and (b1) of this section shall supersede all local rules in conflict or incompatible with such rules. As used in this subsection, "local rules" shall include provisions relating to boating, water safety, or other recreational use of local waters in special local, or private acts, in ordinances or rules of local governing bodies, or in ordinances or rules of local water authorities. Except as may be authorized in subsections (a), (b), and (b1) of this section, no local rules may be made respecting the United States Aids to Navigation System and its implementation or respecting supplemental safety equipment on vessels.

(e) The Commission may adopt rules prohibiting entry or use by vessels or swimmers of waters of the State immediately surrounding impoundment structures and powerhouses associated with electric generating facilities that are found to pose a hazard to water safety. This subsection shall not apply to the Person-Caswell Lake Authority, Carolina Power and Light Company Lake (Hyco). (1959, c. 1064, s. 15; 1965, c. 394; 1969, c. 1093, s. 4; 1977, c. 424; 1983 (Reg. Sess., 1984), c. 1082, ss. 4, 5; 1987, c. 827, s. 5; 1993 (Reg. Sess., 1994), c. 753, s. 3; 2006-185, s. 1.)